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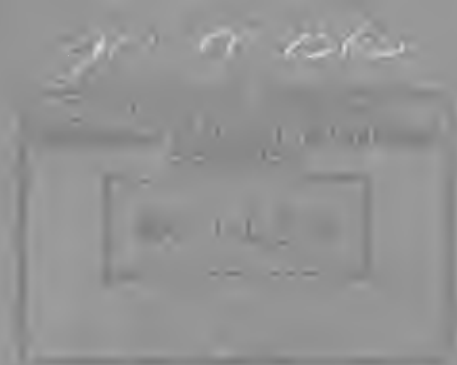
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December 19, 1996

Towing in the City of Boston

The Finance Commission conducted a comprehensive review of the towing operation of the City of Boston Transportation Department. The findings of this study indicate that the City of Boston's internal towing is an operational disaster. Hundreds of vehicles towed by the Transportation Department were subsequently determined to have been invalidly towed because of any number of mistakes made in the field. Hundreds of other tows occur because the Transportation Department has an excessively large towing fleet which it feels pressured to keep occupied. Cars are routinely tagged and/or towed despite missing or conflicting signs. There has been no overall review of towing policies for years. There is minimal administrative oversight, inconsistent and preferential treatment.

It is imperative that the Administration of Mayor Thomas Menino revisit towing policies in the City and immediately put a halt to the arbitrary towing of vehicles. Recently appointed Commissioner of the Transportation Department, Mr. John Magee, is not responsible for the multitude of towing problems. He has assured the Finance Commission that he is committed to developing an effective and fair process for motorists and will address the problems identified in this report.

The Commission devoted two months to this review, much of it was spent observing field operations. Over two-hundred tows were observed. It is important to note that not once did the Commission observe a tow operator being discourteous to the public or careless with a private vehicle. However, the fact remains that every day motorists are towed unfairly in the City of Boston.

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Recommendations

1. There should be an immediate review of the towing policies in the City of Boston;
2. The motoring public should not be subjected to arbitrary decisions regarding towing. Unless there is a specific reason which is properly signed, no vehicle should be towed;
3. The Transportation Department must revisit all towing violations and determine which are serious enough to warrant a tow;
4. The department must address a serious signage problem. More emphasis must be placed on the accuracy of signs, the removal of conflicting signs and replacement of missing signs;
5. The violations that are identified in this report should be resolved in favor of the people who were victimized by the City;
6. Temporary signs should be placed on or over existing signs to prevent confusion;
7. Temporary signs for construction purposes should be installed by the City or witnessed by the City. No vehicle should be towed unless there is documentation that signs were properly placed in a timely manner.
8. The drop policy should be that if the motorist appears and is willing to move the vehicle, allow that to occur with the approval of a supervisor.
9. The Transportation Department must review its policy of assisting with lock outs and performing move overs in light of the fact that the City carries no insurance.
10. Once some semblance of order is restored the City needs to consider the size of its towing operation.

Background

There are two agencies in the City of Boston responsible for towing vehicles. The Transportation Department owns twenty-five tow trucks. They towed 30,500 vehicles in fiscal year 1996. The towing fees that resulted generated \$320,236. The expense for the city to tow those vehicles exceeded \$2.5 million.

Conversely, the Boston Police Department ordered the towing of 12,000 vehicles in fiscal year 1996. There was no expense or revenue generated from these tows. The tow operation is publicly bid at no cost to the City. The Police Department developed specifications for towing services and employs eleven tow truck companies under contract.

Given the very different methods of towing managed by two large City agencies and the significant cost differential to the city, the Finance Commission conducted a complete review of the internal towing program managed by the Boston Transportation Department. The Commission found significant shortcomings. A summary of towing activities is attached as Appendix A.

Findings

Despite its shortcomings, there are several components of the towing operation that are well managed and serve an effective purpose. The boot and tow program is effective. Overnight towing to enforce the street sweeping of the main arteries and the towing of abandoned vehicles from the neighborhoods are both effective.

However the operational findings of the Commission were significant:

1. The Transportation Department ordered over 750 tows of private vehicles that it subsequently determined were invalid;

2. Despite the significant lack of proper signage, particularly missing and/or conflicting signs, the Transportation Department routinely tags and tows vehicles;

3. There are daily problems of arbitrary and inconsistent towing practices;

4. The city views certain towable offenses as being unimportant, specifically double parking and hydrant violations;

5. A high number of unnecessary tows were documented and there are differences in the implementation of the rules and regulations throughout the Transportation Department;

6. Tow truck operators perform over one-hundred lock-outs and over six hundred move-overs monthly despite the fact that the City has no insurance.

Among the financial and administrative concerns were:

1. The expense of the towing operation exceeds revenue;

2. The Transportation Department owns tow trucks that cannot be operated by its drivers because drivers do not possess the necessary operating license;

3. The auction policy for abandoned vehicles fails to distinguish value prior to determining whether or not a vehicle should be sold;

4. The Transportation Department lacks a policy to review claims against the city due to alleged damage inflicted on private vehicles during towing operations.

Operational Issues

The Finance Commission began its review of the towing operation to consider whether or not having an in-house operation was cost effective. Operationally the tow program is so mismanaged, it cannot be effectively evaluated. There are so many bad tows, questionable tows and needless tows occurring that the tow program requires a systematic and complete overhaul. What is a towable offense one day may not even amount to a ticket the following day. Everyday motorists are unfairly towed in the City of Boston.

Over the past two years 767 people were refunded the tow, storage and ticket fee because the Transportation Department determined, after the fact, that their vehicles should not have been towed in the first place. Despite such glaring statistics, the department has not addressed its shortcomings. The number of bad tows is clearly higher than

the dismissal rate because that data only represents people who filed an appeal to the department and won. Many more people do not appeal towing violations. Because the operator of the towed vehicle rarely witnesses the tow he/she is oftentimes unaware that they were improperly towed because the car is gone. It is much easier appealing a parking ticket because the vehicle is still present.

The bulk of the bad tows are due to signage problems. The Department will seek verification of the existence of the appropriate sign if an appeal is made. But there is a lengthy time delay. The motorist must send in a written appeal which takes time, processing takes more time and then a verification request is made which takes even more time. If the missing sign happens to be replaced during this period, the motorist loses. Again, unless the tow was witnessed it is difficult to successfully appeal.

For example, the Commission observed two handicapped spaces on Stuart St. at the corner of Trinity Place where people were routinely tagged and towed despite a missing handicapped parking only sign (see attached photo). The sign was missing for a minimum of eight weeks. The department began the lengthy verification process when several aggrieved persons appealed the ticket and the tow they received. Weeks went by before it was verified that the sign was missing. During this time undoubtedly other people were tagged and/or towed who did not appeal that action. Instead of replacing the sign and/or instructing the enforcement division to not tag or tow, nothing was done until the sign was finally replaced in early December.

Temporary signs are a major issue. A temporary sign must be in place for at least 24 hours in order to be enforced. Many of them are placed by construction companies and there is no way to verify that the sign was put up on time or placed in the correct spot. Despite not being able to verify the existence of a sign for a minimum of 24 hours towing occurs.

Conflicting signs are a problem. Walnut St. at Mt. Vernon St. is a case in point. The accompanying photo shows a no stopping sign and a resident parking sign with conflicting arrows. Residents have been tagged and towed from that location.

Another example viewed by the Commission was on Berkeley St. The street is posted as a tow zone from 4-6 p.m. from Newbury St. to Beacon St. The parking meters so indicate and some have added signs (see photo). On November 9, 1996 temporary signs were posted by the Transportation Department indicating the street was to be no parking from 12-8 p.m. The

temporary signs conflicted with the posted policy. The few temporary signs that were placed were on the corner of each intersection (see photo). They should have been placed directly over the existing sign as is the case on occasion (see photo). Anyone pulling up to a meter on Berkeley unless it was between the posted limits would have believed that parking was permissible. Anyone towed during the period of 12-4 or 6-8 were towed improperly and several were observed by the Commission.

Certain violations are unknown to the public. The accompanying photo shows a tagged van with the sign clearly missing. There was no sign anywhere near that parking spot.

The Commission questions certain inconsistent policies regarding towing. Two vehicles were tagged and towed on Broad St. near #15 on December 10, 1996 despite no signage (see photo). The nearest sign on the street indicates that one spot is a no stopping zone. Where a no stopping zone covers a larger area, arrows are used as an indicator. There is no arrow on the sign down the street. Enforcement officers treat the area differently. Later that same day, and on subsequent days at the same location enforcement officers did not issue tickets to vehicles parked in the same space.

The designation of rush hour zones in the City should be evaluated. Some of the streets so posted have no apparent affect on traffic flow. Milk St. in the morning, Arlington St. and Berkeley St. east of Harrison Ave. are posted but not enforced. Some of the streets that are enforced, however, are enforced aggressively, particularly Berkeley St. from Newbury to Beacon. On numerous occasions the Commission observed vehicles being hooked exactly at 4:00 p.m., many times even before a ticket was issued.

The aggressiveness of the 4:00 tow policy merits review. The Commission suggests that a ten minute grace period be adopted with a tow truck parked on location as a deterrent. Similar to the grace period in the new electronic parking meters it would exhibit flexibility to the public and accomplish the desired objective.

Another area in need of review is the so-called drop policy. It has been a longstanding departmental policy, recently reinforced by Commissioner Magee, that once a vehicle is hooked and the tires are off the ground, the vehicle is to be towed. The policy is not realistic. The Commission observed dozens of occasions where a vehicle was released when the owner appeared. Many tow operators will drop a vehicle, at times on their own initiative and at times after consultation with a supervisor.

Commissioner Magee maintains that the policy is and should be that once hooked the vehicle is towed. The Commission respectfully disagrees. The no drop policy was put in effect

years ago in order to avoid the appearance of impropriety. Not a hint of impropriety was observed during this review. Frankly, it appears to the Commission that drivers and supervisors make good decisions regarding many individual situations.

For example, if it is the intent of the department to remove all vehicles to provide for a better flow of traffic what is wrong with allowing the owner to drive away? It is user friendly, accomplishes the objective and frees up the tow truck. During this review temporary signs were placed on Walnut St. to help meet a construction need. This is a residential area with residential parking by permit. When an owner appeared while the car was being hooked doesn't it make sense to drop the vehicle and allow its owner to simply move it?

It is essential to treat the motoring public with respect at any time, but particularly when internal policies show favoritism. There is an unwritten rule on the street to never tag or tow a car owned by a police officer. Daily vehicles are parked all over the city while the owner performs a paid detail. The police insignia indicates to enforcement officers not to tag. Other areas of the city have local rules. It is department policy not to tag or tow for double parking in South Boston or on some of the main streets in the North End.

Roaming by tow truck operators is another area that merits review. Too often tow operators drive around and if they observe a violation call it in to the central office. Routinely there is not even a ticket on the vehicle. A towing supervisor will meet the driver, tag the car and it is towed. It seems apparent that that policy is not an enforcement problem and just a way to fill time.

The customer service policy of the department is problematic. For example, in a recent month reviewed by the Commission, 107 people were assisted who were locked out of their vehicles and another 634 vehicles were moved over as opposed to being towed.

Assisting a locked out motorist is customer friendly but it is a policy with some risk to the City. The City is uninsured and thus not covered by any damage caused by breaking into a vehicle. Claims for damage have been filed against the City. If this policy is to continue then some form of a waiver should be obtained before any vehicle is entered. The American Automobile Association (AAA) informs its members that they assume all liability for damage in a lock out situation. Most tow companies responding to AAA calls require a signed waiver prior to entry.

Move-overs is another problem. Based on departmental records move-overs occur frequently, over six hundred times in September, 1996 alone. Based upon the field review conducted by the Commission we question the accuracy of those numbers. Over 600 monthly would mean that an average of twenty-five daily based on a six day week. During this review not one move-over was observed. To the extent they do occur there is another problem regarding treatment to the public. Where the move over is not a towable offense, the owner has the right to know that the City moved the vehicle.

Transportation Department Enforcement Division

Over the years there have been complaints that the objective of the City with respect to ticketing and towing is to raise revenue. Ticketing significantly enhances revenue but the expense of towing exceeds the revenue generated.

Total departmental revenue in fiscal year 1996 was \$43,745,070. The bulk of the revenue is in violation payments, i.e. people paying their parking tickets. Revenue directly attributed to towing is small by comparison. The revenue breakdown is as follows:

Violation payments -----	\$39,222,028
Boot and tow program -----	3,357,796
Tow fees -----	320,236
Surcharge for leased vehicles	431,453
Bounced Check fee -----	28,534
Abandoned vehicle payments -----	<u>385,023</u>
	\$43,745,070

The towing program is costly. The City of Boston can only charge \$12 per tow by law. That limit was placed on the City in the Tregor legislation and remains today. Every other municipality and jurisdiction is governed by the Commonwealth of Massachusetts, Department of Public Utility rates. Rates are up to \$75 per tow. Police ordered tows in Boston are at the DPU rate.

The expense of the towing component of the Transportation Department exceeds \$2 million annually. It is broken down as follows:

Salaries and benefit expense of operators --	\$1,200,000
Direct Supervisory staff expense -----	750,000
Boot and tow staff expense -----	225,000
Vehicle maintenance -----	100,000
	<u>\$2,275,000</u>

In addition, the City acquired the tow lot through an eminent domain taking last year for \$6 million.

Vehicle cost is high. The most recent purchase of ten tow trucks was in 1995 at a unit price of \$43,000 per truck. Those trucks are under warranty until they are driven 36,000 miles which has arrived for all tow trucks. Maintenance is then performed in house unless there is a major problem or body damage. Trucks purchased back in 1992 are beginning to incur transmission problems. Two have had new transmissions installed costing in excess of \$1,000. Tow trucks, like all municipal vehicles, are not insured. One truck incurred severe front end damage (see photo). The body work expense is \$5,740 and is charged to the department's budget.

There are personnel and union provisions that also effect operations. Drivers are not required to possess a Class One Commercial Drivers License (CDL). That precludes them from operating the larger tow trucks, two of which sit idle at Frontage Road. One is a heavy duty Volvo used to tow large vehicles. It was purchased in 1988 for \$75,000 and is largely unused. It has traveled 66 miles in the past year. Conversely, police ordered tows are performed by private vendors all of whom possess a Class One CDL. One benefit of that license is that the license holder must submit to drug testing.

Municipal vehicles are uninsured and thus any valid claim is paid directly by the City. Claims are administered by the Law Department and claims due to towing are frequently received.

Unclaimed vehicles present the city with a disposal problem as well as a space problem at the tow lot. There are two methods of disposal, crushing and sale through an auction conducted by the Police Department. The owner of record is notified that the vehicle is at the lot yet hundreds of vehicles are not recovered.

If there is value the vehicle will be auctioned, otherwise it is crushed. Cars sit an average of fifty-five days before being auctioned. Over a three month period the City auctioned one hundred and sixty-eight vehicles. Only a few are sold for more than \$1,000. Seventy-two were sold for \$200 or less and twenty-nine vehicles were sold for \$50 or less.

Interestingly, if a vehicle is auctioned for more than is owed in tickets, tow fees and storage, the balance is returned to the owner.

Conclusions

Unless there is a specific reason that is clearly identified through appropriate signage, no car should be towed by the City. Vehicles are towed for no apparent reason every day and the owner endures the hassle of a trip to Frontage Rd. to retrieve the vehicle. The towing practices in the City make no sense. Moreover, it is impossible to know how many bad tows are performed and/or bad tickets issued.

The Commission identified hundreds of bad tows, hundreds more that were at best arbitrary and in truth not necessary. The City, in reality, has no true policy on towing. Frankly, if it were not for the common sense exhibited by most tow truck operators there would be more bad tows than exist at present.

The problems identified herein are due to administrative indifference. The Transportation Department and the City administration has failed to consider the impact to literally thousands of drivers. It is inexcusable.

Appendix A

There are three types of towing activities in the department: violation tows, seizures in the boot and tow program and abandoned vehicles. Over the past two fiscal years and year to date this fiscal year tow numbers were as follows:

	<u>Fiscal Year</u> <u>1995</u>	<u>Fiscal Year</u> <u>1996</u>	<u>July, 1996 to</u> <u>November, 1996</u>
Violation tows	31,709	30,508	11,067
Boot and tow	6,377	6,634	3,377
Abandoned vehicles	2,687	2,406	1,647

Violation tows remain the major focus of the towing operation. There are thirty-one offenses that may result in the towing of a vehicle. However, 65% of all tows result from two violations; parking in a tow zone and towing vehicles obstructing street cleaning. During October, 1996, the City towed 2,751 vehicles. The top several categories of tows were:

No stopping zones -----	989
Street cleaning -----	798
Intersection violation ---	102
Handicapped parking -----	84

Near the bottom of the list were:

Double parking -----	9
Hydrant violation -----	15
Parking in a crosswalk ---	15

The penalty structure would also seem to indicate priority due to the severity of the offense. The penalty attributed to certain violations are as follows:

Handicapped parking offense ---	\$75
Hydrant violation -----	\$50
Handicap ramp -----	\$50

No stopping -----	\$40
Double parking -----	\$40
Crosswalk violation -----	\$40
Fire lane violation -----	\$40
Sidewalk -----	\$40
Island/center strip violation -	\$40

There is no correlation to the severity of the offense and the actual number of tows. Tows resulting from street sweeping enforcement occur almost exclusively overnight on the main arteries of the City. It appears to be the priority and purpose of the overnight towing operators.

During the day and evening shifts the priority for the department seems to be keeping certain arteries clear of vehicles to facilitate the morning and evening flow of traffic, a policy adopted in 1987.

Beyond these situations, there is no apparent towing policy. Certain towable offenses are allowed to exist without being enforced. Double parking, which is commonplace in the city, is rarely enforced. Similarly few people are towed from crosswalks or because of hydrant violations.

The department utilizes a 24 hour a day operations Monday through Friday. The make-up of those shifts is as follows:

Day Shift, 6:30 a.m. to 2:30 p.m.

- 11 tow drivers
- 3 supervisors
- 2 booters
- 2 release personnel

Evening Shift, 3-11 p.m.

- 9 tow drivers
- 2 supervisors
- 2 booters
- 2 release personnel

Night Shift, 11 p.m. to 7:00 a.m.

- 6 tow drivers
- 1 supervisor

Due to the existence of a comprehensive database there is a volume of information available on the workload of the towing operation. The following is a breakdown of the tows per shift in October, 1996.

day shift	---	955
evening shift	---	866
night shift	---	930
		<u>2,751</u>

Despite having fewer tow truck operators, the night shift does more towing on a per truck basis. Obviously, it is easier to move about the city without any traffic. A review of the workload of the overnight shift indicates that the vast majority of its tows occur in the first half of the shift.

The other two shifts are busy during the rush hour towing program. After rush hour there are too many tow trucks roaming the City.



A number of vehicles were tagged and towed from this spot on Stuart St. near Trinity Place. Note the missing sign on the post.



Eight weeks later the sign was replaced. Note its distance from the next posted sign.



Vehicles being towed on Berkeley St. on Tuesday, November 9, 1996.



Temporary signs on Berkeley St. are posted on street corners while permanent signs are located at each space that give conflicting information.



An enforcement officer tags two vehicles on Broad St. for allegedly parking in a tow zone.



A tow operator is called to remove the one of the two vehicles, both were towed.



Note the sign for the alleged offense. It clearly indicates only the location below. There are no arrows indicating a further extension of the towable area.



Same location on the following day after an enforcement officer passed by and did not even ticket the vehicles parked in the same spot where cars were towed the day before.



The interpretation of these conflicting signs on the corner of Walnut St. and Mt. Vernon St. was to tow vehicles that had resident parking stickers.



The City does not insure any vehicles thus any work must be paid for. This tow truck incurred front end damage on October 31, 1996. The low bid for the body work to repair it was \$5,740. It is currently in the body shop.



This vehicle was tagged for a towable offense despite the fact that the sign identifying the regulation was obviously missing.



The correct way to place a temporary sign is to place it over the sign that identifies the permanent regulation. Compare this practice with the practice on Berkeley St. that existed when vehicles were unfairly towed.

